

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 453-End

AND AT THE
FIRST SPECIAL SESSION
September 6, 1983 to September 7, 1983
Chapters 583-588

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

	<u>1983-84</u>	<u>1984-85</u>
Positions	(4 1/2)	(4 1/2)
Personal Services	\$103,923	\$111,969
All Other	<u>21,077</u>	<u>13,031</u>
Total	\$125,000	\$125,000

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective July 1, 1983.

CHAPTER 570

S.P. 527 - L.D. 1550

AN ACT to License Home Health Care Services.

Be it enacted by the People of the State of Maine as follows:

22 MRSA c. 419 is enacted to read:

CHAPTER 419

HOME HEALTH SERVICES

§2141. Purpose and intent

The Legislature finds that licensure of all agencies and organizations providing home health services is desirable and it is the purpose of this chapter to protect the public and assure that home health services are provided under standards of safety, efficiency and quality.

It is the intent of this chapter to set forth the statutory authorization for home health care licensure, including the standards, start-up procedures and means by which licensure is established.

§2142. Definitions

As used in this chapter, the following terms have the following meanings.

1. Commissioner. "Commissioner" means the Commissioner of Human Services.

2. Department. "Department" means the Department of Human Services.

3. Home health care provider. "Home health care provider" means any business entity or subdivision thereof, whether public or private, proprietary or not for profit, which is engaged in providing acute, restorative, rehabilitative, maintenance, preventive or health promotion services through professional nursing or another therapeutic service, such as physical therapy, speech pathology, home health aides, nurse assistants, medical social work, nutritionist services or personal care services, either directly or through contractual agreement, in a client's place of residence. This term does not apply to any sole practitioner providing private duty nursing services or other restorative, rehabilitative, maintenance, preventive or health promotion services in a client's place of residence.

§2143. License required

Effective July 1, 1984, no home health care provider may provide home health services without having, subject to this chapter and to the rules promulgated by the department under this chapter, a written license therefor from the department.

§2144. Licensure procedures

1. Types of licenses. The department shall issue the following types of licenses, as follows.

A. A provisional license shall be issued by the department to an applicant who:

(1) Has not previously operated as a home health care provider or is licensed but has not operated during the term of that license;

(2) Complies with all applicable laws and rules, except those which can only be complied with once clients are served by the applicant; and

(3) Demonstrates the ability to comply with all applicable laws and rules by the end of the provisional license term.

B. The department shall issue a full license to an applicant who complies with all applicable laws and rules.

C. A conditional license may be issued by the department, when the provider fails to comply

with applicable laws and rules, and in the judgment of the commissioner, the best interest of the public would be so served by issuing a conditional license. The conditional license shall specify when and what corrections shall be made during the term of the conditional license.

D. The commissioner may grant a full, provisional or conditional license under this chapter to those entities otherwise regulated by the State Government or the Federal Government, if he determines that those regulations meet the purpose and intent of this chapter.

2. Licenses not assignable or transferable. No license may be assignable or transferable. A license shall be immediately void if ownership or control of the provider changes.

3. Term of license; compliance visits. Licenses shall be issued for the following terms.

A. The provisional license shall be issued for a minimum period of 3 months or a longer period, as deemed appropriate by the department, not to exceed 12 consecutive months.

B. A full license shall be issued for the following terms.

(1) Except as provided in subparagraph (2), the term of all full licenses shall be for one year.

(2) The department shall, during the 2-year period commencing July 1, 1984, stagger the terms of full licenses issued under this chapter so that the expiration dates of those licenses allow for distributing the work of relicensure evenly throughout subsequent years.

C. The conditional license shall be issued for a specific period, not to exceed one year, or the remaining period of the previous full license, whichever the department determines appropriate based on the laws and rules violated.

D. Regardless of the term of the license, the department shall monitor for continued compliance with applicable laws and rules on at least an annual basis.

4. Failure to comply with applicable laws and rules. The following shall apply for failure to comply with applicable laws and rules.

A. When an applicant fails to comply with applicable laws and rules, the department may refuse to issue or renew the license.

B. If, at expiration of a full or provisional license, or during the term of a full license, the facility fails to comply with applicable laws and rules and, in the judgment of the commissioner, the best interest of the public will be so served, the department may issue a conditional license or change a full license to a conditional license.

C. Any license issued under this chapter may be suspended or revoked for violation of applicable laws and rules committing, permitting, aiding or abetting any illegal practices in the operation of the provider of conduct or practices detrimental to the welfare of persons to whom home health care services are provided. When the department believes that a license shall be suspended or revoked, it shall file a complaint with the Administrative Court in accordance with Title 4, section 1153 or the Maine Administrative Procedure Act, Title 5, chapter 375.

5. Appeals. Any person aggrieved by the department's decision to take any of the following actions may request an administrative hearing as provided by the Maine Administrative Procedure Act, Title 5, chapter 375:

A. Issue a conditional license;

B. Amend or modify a license;

C. Refuse to issue, or renew a full license; or

D. Refuse to issue a provisional license.

§2145. Standards

Standards shall be developed as follows.

1. Standards for licensing of all home health care entities. The commissioner shall develop, no later than one year of the date of enactment of this chapter, standards for the licensing of all home health care entities.

2. Variation in standards. Licensing standards may vary according to the varying means and methods of providing home health care services, but shall be consistent with the purpose and intent of this chapter.

3. Areas to be addressed. Home health care licensing standards shall address the following areas:

A. General requirements;

B. Qualifications for professional personnel;

C. Qualifications for paraprofessional personnel;

D. Treatment and services and their coordination;

E. Supervision of professional and nonprofessional personnel;

F. Organizational structure, including lines of authority;

G. Clinic records;

H. Business records; and

I. Other aspects of home health care services that may be necessary to protect the public.

4. Review of standards. All standards shall be subject to review by the joint standing committee of the Legislature having jurisdiction over health and institutional services.

§2146. Fees

Each application for a license under this chapter shall be accompanied by the fee established by the department. No such fee may be refunded. The department shall establish such fees on the basis of a sliding fee scale reflecting variations in size and scope of operations, but in no event may the fee exceed \$250. All fees received by the department under this chapter shall be paid into the State Treasury to the credit of the department for the purpose of reducing the costs of carrying out this chapter.

§2147. Exclusions

The following are exempt from the provisions of this chapter:

1. Hospice organizations; volunteer services. Hospice organizations in which services are provided substantially by volunteers;

2. Families, friends and neighbors. Families,

friends and neighbors;

3. Sole practitioners. Sole practitioners otherwise licensed by the State;

4. Physicians. Services provided directly by physicians;

5. Elderly nutrition programs. Elderly nutrition programs;

6. Chore services. Chore services;

7. Pharmacy or medical supply company. Any pharmacy or medical supply company which furnishes no home health services to persons in their homes except supplies;

8. Persons or agencies contracting or arranging home health services. Anyone contracting or arranging for home health services provided by home health care providers licensed or excluded under this chapter;

9. Departments. Departments of State Government;

10. Facilities licensed pursuant to chapter 405. Hospitals, intermediate care facilities, skilled nursing facilities or other facilities licensed pursuant to chapter 405 when the services are provided to clients residing in those facilities; and

11. Licensed boarding-care facilities. Boarding-care facilities licensed pursuant to chapters 1663 and 1665 when the services are provided to clients residing in those facilities.

§2148. Right of entry and inspection

The department and any duly designated officer or employee thereof shall have the right to enter upon and into the premises of any home health care provider who has applied for a license or who is licensed pursuant to this chapter at any reasonable time and, upon demand, have the right to inspect and copy books, accounts, papers, records and other documents in order to determine the state of compliance with this chapter and any rules in force pursuant thereto. The right of entry and inspection shall extend to any premises and documents of providers whom the department has reason to believe are providing home health services without a license, but no such entry or inspection may be unreasonable or made without the permission of the owner or person in charge thereof, unless a warrant is first obtained

from the District Court authorizing that entry or inspection.

Effective September 23, 1983.

CHAPTER 571

H.P. 1054 - L.D. 1398

AN ACT Providing for Administrative Changes in Maine Tax Laws.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §576-B, first ¶, as amended by PL 1981, c. 706, §§5 and 6, is further amended to read:

The percentage factor by which the growth rates set by the State Tax Assessor pursuant to section 576 shall be reduced to reflect the growth which can be extracted on a sustained basis shall be 10% ~~for the tax year 1982 and for the tax year 1983,~~ and thereafter shall annually be set by the Legislature in the year preceding the tax year in which the factor will apply.

Sec. 2. 36 MRSA §1760, sub-§42 is enacted to read:

42. Certain property purchased outside the State. Sales of property purchased and used by the present owner outside the State more than 6 months before being brought into the State. For the purposes of this subsection, "use" does not include storage, but means actual utilization of the property for a purpose consistent with its design. Property which is required to be registered for use in this State does not qualify for exemption unless it was registered by its present owner outside this State more than 6 months prior to its registration in this State.

Sec. 3. 36 MRSA §2013, sub-§2, as amended by PL 1981, c. 364, §28, is further amended to read:

2. Credit authorized. Any person, association of persons, firm or corporation who purchases depreciable machinery or equipment for use in commercial agricultural production or commercial fishing shall be refunded the amount of sales tax paid by him by